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IN THE

Supreme Court of the United States

OCTOBER TERM 1942

No. 203

CLAIMANTS FOR BENEFITS UNDER THE MICHIGAN UNEMPLOYMENT COMPENSATION ACT,
Petitioners,
vs.
CHRYSLER CORPORATION, a Delaware Corporation,
and
THE APPEAL BOARD OF THE MICHIGAN UNEMPLOYMENT COMPENSATION COMMISSION, et al.,
Respondents

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MICHIGAN AND BRIEF IN SUPPORT THEREOF

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PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MICHIGAN

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States of America:

The petition of claimants for benefits under the Michigan Unemployment Compensation Act respectfully shows:

SUMMARY AND SHORT STATEMENT OF MATTERS INVOLVED

Petitioners numbering approximately twenty-two thousand (22,000) (R. 7, 8) are claimants under the Michigan

Unemployment Compensation Act for Unemployment Compensation Benefits in the amount of approximately Two Million ($2,000,000.00) Dollars. Their claim arises out of their unemployment at the Chrysler Corporation from October 14, 1939 to December 2, 1939. Petitioners are members of the International Union, United Automobile, Aircraft and Agricultural Implement Workers of America affiliated with the Congress of Industrial Organizations.

The Michigan Unemployment Compensation Act (Sections 32-38) provides that claims for benefits shall be allowed or denied by the Michigan Unemployment Compensation Commission and from its decision appeal may be taken by either the claimant or the employer successively to a referee of the Michigan Unemployment Compensation Commission, the Appeal Board of the Michigan Unemployment Compensation Commission, the Circuit Court and finally to the Michigan Supreme Court.

The following constitutes a history of the proceedings:

1. Petitioners' claims were allowed by the redetermination of the Michigan Unemployment Compensation Commission on July 26, 1940 (R. 121).
2. The redetermination of the Commission allowing benefits was affirmed on appeal by the Chrysler Corporation to the referee of the Michigan Unemployment Compensation Commission on October 7, 1940 (R. 140).
3. The decision of the referee allowing benefits was affirmed on appeal by the Chrysler Corporation to the Appeal Board of the Michigan Unemployment Compensation Commission on February 14, 1941 (R. 165-6).
4. On appeal to the court by the Chrysler Corporation, benefits were disallowed by the Circuit Court

for the County of Ingham on October 8, 1941 (R. 178).

5. On appeal by the claimants from the decision of the Circuit Court, the Michigan Supreme Court on April 6, 1942 upheld the decision of the Circuit Court and disallowed benefits.

Section 34 of the Michigan Unemployment Compensation Act provides in part:

> "* * * Provided, That if the final decision of a referee affirms the initial or an amended determination, or the appeal board affirms the final decision of a referee, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken, but if such decision is finally reversed, no employer's experience record shall be charged with benefits so paid" (See statement of Jurisdiction for citation).

This foregoing provision is known as the "double affirmation" clause. Under its provisions benefits allowed to petitioners by redetermination of the Unemployment Compensation Commission, by the referee of the Unemployment Compensation Commission and by the Appeal Board of the Unemployment Compensation Commission must be paid regardless of the fact that such decisions were subsequently reversed in the courts. Payments so made would be paid out of the general Michigan State Unemployment Compensation fund.

The Chrysler Corporation's financial interest in whether or not petitioners are paid in accordance with the provisions of Section 34 of the Michigan Unemployment Compensation Act is solely that of a general taxpayer to the fund, identical with that of every other employer in the State of Michigan subject to the tax because it is expressly provided in Section 34 that "if such decision

is finally reversed, no employer's experience record shall be charged with benefits so paid."

The Michigan Supreme Court in its decision not only reversed the findings of fact of the Appeal Board of the Unemployment Compensation Commission upon which the allowance of benefits was based, but further held that benefits should not be paid in accordance with the provisions of Section 34 of the Michigan Unemployment Compensation Act, for the reason that such provision would deprive the Chrysler Corporation of property without due process of law in violation of the due process clause of the Fourteenth Amendment to the United States Constitution.

The opinion of the Michigan Supreme Court on this constitutional issue is well summarized in Syllabus 1 of the case in the official Michigan reports:

> 301 Michigan 351:
>
> "1. UNEMPLOYMENT COMPENSATION—PAYMENT OF BENEFITS PENDING APPEAL IN COURT—DUE PROCESS.
>
> "Provision of unemployment compensation act stating that benefits thereunder finally allowed by referee or appeal board should be paid regardless of any appeal from decision of administrative appeal board established under the act if construed as requiring payment of benefits pending judicial determination as to disqualification of claimants for benefits because of direct interest in a labor dispute would render administrative action superior to recognized judicial power and constitute a denial of due process (U. S. Const. am. 14, §1; Act No. 1, §§34, 38, Pub. Acts 1936 (Ex. Sess.), as amended by Act No. 347, Pub. Acts 1937, and Act No. 324, Pub. Acts 1939)."

STATEMENT OF JURISDICTION

Jurisdiction of this Court to review the decision of the Michigan Supreme Court by certiorari is conferred in 8 Federal Code Annotated, Title 28, Section 344(b), the same being Judicial Code Section 237, as amended.

The statute of the State of Michigan held by the Michigan Supreme Court to be violative of the due process clause of the Fourteenth Amendment of the United States Constitution is the Michigan Unemployment Compensation Act (Act No. 1 of the Michigan Public Acts of 1936 extra session (pp. 1-21), as amended by Act No. 347 of the Michigan Public Acts of 1937 (pp. 843-858), and by Act No. 324 of the Michigan Public Acts of 1939 (pp. 797-815). The statute as amended is reported in Michigan Compiled Laws 1929, Vol. 5, Mason's 1940 Cumulative Supplement, § 8485-41 to § 8485-103, pages 887 to 904. That part of Section 34 of said statute which was held unconstitutional is found on page 899 as follows:

> "* * * Provided, That if the final decision of a referee affirms the initial or an amended determination, or the appeal board affirms the final decision of a referee, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken, but if such decision is finally reversed, no employer's experience record shall be charged with benefits so paid."

The judgment of the Michigan Supreme Court herein sought to be reversed was entered April 6, 1942. This Application for Certiorari is filed ..... Application for certiorari may be made within three months from date of entry of Judgment, 8 Federal Code Annotated, Title 28, Section 350.

QUESTIONS PRESENTED:

The questions presented for review are:

1. Does the payment of Unemployment Compensation benefits to claimant petitioners by the State of Michigan from its Unemployment Compensation Fund in accordance with the provision of Section 34 of the Michigan Unemployment Compensation Act deny the Chrysler Corporation of any PROPERTY within the meaning of the Fourteenth Amendment to the United States Constitution?

2. If Chrysler Corporation as a taxpayer to the Michigan Unemployment Compensation Fund has a property interest within the meaning of the Fourteenth Amendment, does due process of law require judicial determination of the right of claimants to Unemployment Compensation benefits or is the requirement of due process satisfied by proceedings before the administrative tribunals?

REASONS RELIED UPON FOR THE ALLOWANCE OF THE WRIT

This Court should review by certiorari the decision of the Michigan Supreme Court for the following reasons:

1. The decision of the Michigan Supreme Court held Section 34 of the Michigan Unemployment Compensation Act, commonly known as the "double affirmation" clause, violative of the Fourteenth Amendment to the United States Constitution. Similar provisions were incorporated in the Unemployment Compensation Acts of thirty-six states. This "double affirmation" clause was taken from the so-called model draft state Unemployment Compensation Act submitted to the states by the Federal Social Security Board at the time when these Acts were

first being considered by the legislature of the various states. Whether such provision is violative of the United States Constitution is a matter of national importance.

2. A similar provision in the California Unemployment Compensation Act has been held valid by the California Supreme Court in the case of *Abelliera v. District Court of California, et al.*, 109 Pac. (2d) 942, 17 Cal. (2d) 280. The Michigan and California decisions are the only decisions yet rendered to our knowledge by a court of final jurisdiction on this subject. Workers in California have been paid unemployment compensation benefits because the California Supreme Court held the double affirmation clause valid while twenty-two thousand (22,000) workers in Michigan with claims approximating Two Million Dollars ($2,000,000.00) have been denied benefits because the Michigan Supreme Court has held a similar double affirmation clause violative of the due process clause of the Fourteenth Amendment of the United States Constitution. This court should resolve the conflict between the Michigan and California State Supreme Courts on this important federal question.

3. The public policy of the Unemployment Compensation Acts is to provide an expeditious method of paying benefits to unemployed workers while they are unemployed without the delay attendant upon extended appeals. If this may not be done constitutionally by administrative tribunals and if it is held that awards must be subject to judicial review as indicated by the Michigan Supreme Court, one of the primary purposes of such legislation may be defeated.

4. The Michigan Supreme Court in holding the "double affirmation" clause invalid has decided a federal question of substance not heretofore decided by this Court.

5. The decision of the Michigan Supreme Court that payment of benefits to claimants from the Unemployment Compensation Fund of the State of Michigan pursuant to Section 34 of the Michigan Unemployment Compensation Act would deny the Chrysler Corporation of property is erroneous.

6. The decision of the Michigan Supreme Court that due process under the Fourteenth Amendment requires judicial process and may not be satisfied by administrative process is erroneous. It is well settled that administrative procedure may constitute due process.

WHEREFORE petitioners respectfully pray that this Court issue a Writ of Certiorari directed to the Supreme Court of the State of Michigan to the end that the judgment of the Supreme Court of Michigan may be reviewed and reversed by this Honorable Court.

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